

**MINUTES OF REGULAR MEETING OF  
THE REDEVELOPMENT COMMISSION OF GREENSBORO  
TUESDAY, MARCH 21, 2006**

**REGULAR MEETING**

The Redevelopment Commission of Greensboro met in regular meeting in the Plaza Level Conference Room, Melvin Municipal Building, on Tuesday, February 21, 2006 at 4:13 p.m. Commissioners present were: Chair Joe Wood, Bill Benjamin, Nettie Coad and Jerry Leimenstoll. Dan Curry Barbara Harris and Dyan Arkin represented the Housing and Community Development Department (HCD). Jim Blackwood, Esq., was present as legal counsel for the Commission.

Chair Wood moved that Bill Benjamin was recused from discussion and voting on Item 2 on the agenda due to conflict of interest, seconded by Mr. Leimenstoll. The Commission voted 3-0-1 in favor of the motion. (Ayes: Wood, Coad, Leimenstoll. Nays: None. Abstain: Benjamin.)

**1. APPROVAL OF THE MINUTES OF FEBRUARY 21, 2006 ANNUAL MEETING.**

Chair Wood said in regard to the sub-heading on Item 4 where it states: South Elm Street authorization to make an offer for voluntary acquisition of North State Mill Property, he requested the record to include that that property is known as 800, 812, 816,816 Near and 820 South Elm Street.

Mr. Leimenstoll moved approval of the amended minutes of February 21, 2006, seconded by Ms. Coad. The Commission voted 4-0 in favor of the minutes as amended. (Ayes: Wood, Benjamin, Coad, Leimenstoll. Nays: None.)

**2. UPDATE ON 326 AND 328 EAST LEE STREET - OLE ASHEBORO NEIGHBORHOOD.**

Mr. Curry said at the February meeting, the Commission asked staff to notify the property owners that they were to turn in to staff by March 7th a completed construction contract for renovation of the house and any other info that staff needed to have in hand. A contract from Mr. Defreitas' contractor, Mr. Dunham, was received for the rehabilitation of this property. Staff is in the process of reviewing the scope of work. They think there may be a few items on which they need to comment. It would be staff's intention to provide them with some comments on this work write-up and then request that they actually execute a contract document and get that to us as soon as possible. When staff gets the contract back, they will ask Mr. Defreitas for some documentation on the funding since they do not have that.

Lisa Johnson-Tonkins, Esq., 101 West Friendly Avenue, Suite 500, represented Clarence Defreitas. She said it was her understanding that Mr. Gatan who was here a few meetings ago is the private source of Mr. Defreitas' funding and Mr. Gatan has been given a credit line by Wachovia Bank of \$210,800. He has indicated he will give Mr. Defreitas the monies to complete the construction on the house.

Mr. Ross Dunham stated work was moving along on the property and they were waiting for an inspection.

Counsel Blackwood said the whole issue here has been that just because you can get the building permits or have inspections, that is not necessarily the standards or requirements imposed by the Commission in making sure what has occurred and that they are satisfied because their standards are different. The City Building Inspections are completely separate. There have been continuing efforts to

try to reiterate that we did not want Mr. Defreitas expending the effort and monies and then there be a problem with not meeting what we needed. Those permits and inspections are not going to make any difference if it is not satisfactory to the Commission.

Mr. Dunham said he thought that was part of the reason of writing this contract. These are about 65 items that were brought to their attention and he believed they had addressed every one of them.

Counsel Blackwood said he was hoping it would all be resolved. He just wanted to make sure that Mr. Dunham also could act to appropriately guide Mr. Defreitas so that things do not go forward in a way that they should.

Ms. Johnson-Tompkins said they recognized that and the Commission had been clear that you did not want Mr. Defreitas to continue to do work at his expense because the Commission may at some later date say, "This is a no go." However, in speaking to Mr. Defreitas he indicated that since he has the permits, if he does not keep the permits up, he would lose them and then have to start all over. He recognizes that he is working at his own expense and that it may lead to his taking some type of loss.

In response to a question from Mr. Leimenstoll, Mr. Curry said one problem is that staff has never had a full set of plans for the project. Staff will ask for a more detailed survey that lays out the site work because is a pretty important issue, not just for the owner, but also for the Commission because the Commission is actually going to come in and buy a portion of the Defreitas' property for the new street that is going in. So they have got to come together on how this site is going to lay out and how it is going to fit in with the adjoining development. He said he could not fully take the risk out of this situation. The fact is there is an owner who is going ahead with the work. There are still a lot of issues that staff would love to have - a full architectural plan set and a nice site plan for this project and staff has never been able to get to that level of information and that is a drawback. Clearly in the last couple of weeks, there has been a whole lot more work going on at the house so it does look as though they have made a serious commitment to bringing this project forward.

Chair Wood thanked Ms. Johnson-Tonkins and Mr. Dunham for their assistance to Mr. Defreitas and the Commission.

Chair Wood moved that the Commission allow the offer on the property to go forward, but it is, in effect, suspended, if the conditions that have been previously laid out are met; that the property owner demonstrate financial ability to complete the project; that staff and the representatives of Mr. Defreitas continue working with good faith efforts to have the requirements that we need, the site plan, a final review of these line items and the renovation; and that, assuming these conditions are met, staff just give the Commission an update of where we stand at the next meeting; then assuming that all conditions have been met and staff advises us that the conditions have been met at the next meeting, then the Commission does not need another report on this project for 90 days. Ms. Coad seconded the motion.

Chair Wood said "items previously stated" means a demonstration of financial ability to complete the project, the finalization of a contract - it is not quite in contract form - and a site plan that will serve as a legal document since the Commission is going to have to purchase part of the property.

Mr. Curry asked that he be allowed to correct Chair Wood's statement. They already have a survey of their property. What staff is looking for is a site plan that lays out improvements on that site so it locates the house, locates the driveways, walks and a proposed patio.

Mr. Leimenstoll said it was a scale drawing, not a sketch. He said he wanted to make sure Mr. Defreitas'

attorney understands. He asked her if she had any questions about what they were asking for.

Ms. Johnson-Tonkins said they were asking for a finalized contract after staff has had a chance to comment on the proposed work to be done. You want confirmation on his ability to finance the project. You want a site plan showing any improvements. She can provide the Commission with a copy of the letter from Wachovia and she can also provide something from Mr. Gatan saying that he is going to earmark at least \$100,000 of the line of credit for the completion of the project.

Counsel Blackwood suggested that Ms. Johnson-Tonkins get some type of agreement from him where he would agree to fund the construction costs as indicated in the contract. Ms. Johnson-Tonkins agreed.

Chair Wood called the question. The Commission voted 3-0-1 in favor of the motion. (Ayes: Wood, Coad, Leimenstoll. Nays: None. Abstain: Benjamin.)

### **3. UPDATE FROM SHILOH BAPTIST CHURCH ON DEVELOPMENT PLANS. WARNERSVILLE NEIGHBORHOOD.**

Clinton Gravely, 500 Banner Avenue, said they serve as architects for the project and he is also a member of the church and a member of the Trustee Board. With him today is the Chairperson of the Building Committee for the project, Joe Daughtry, and members of the Building Committee. He went into some of the circumstances that were going to delay the start of construction in February 2007.

Chair Wood asked how the fund raising had gone since the last time they spoke with him.

Joe Daughtry, 5307 Crosswinds Court, said they had raised about \$380,000 to \$400,000. He said the Building Committee was holding everything together until they could get a minister. They have several fund raising ideas going on at this point.

Mr. Gravely said the property had already been deeded to the church. However, there is a covenant on there that they have to build within a certain timeframe and to report to the Commission at intervals. Could this be waived? They intend to do what they say they are going to do. It is in memory of Reverend Hairston.

Counsel Blackwood said that he would need to go back and review the minutes and manner in which the Commission authorized the sale. He knew from memory that there were these provisions in there, that it was to be developed, used for church purposes but also to have a Family Life Center. His only concern, and that is why he hesitated, is if it were advertised with these conditions proposed in it, then we are changing the manner in which it was put to the public to then allow the sale. If that were the case, then he believed the Commission would have to revisit publishing a notice that we were going to consider waiving these requirements.

Mr. Benjamin suggested that what they do was not change anything, except just ask you to come back in a year from now and basically do the same thing you're doing tonight. Putting it off another year is probably the simplest response. He did not see it as being a request that is very difficult. He did not intend to deny the continuation but to somehow understand where you are in the process. He thought that was just a fair request because of the fact that was what the condition was when it was sold.

Mr. Benjamin moved that the Commission ask the church to come back in March 2007 and give an update at that time.

Ms. Coad said she would like to offer a friendly amendment. She said they may come back and need another extension and she wanted to be sure the Commission has knowledge of the project. The Commission will have visited the project prior to March 2007.

Mr. Leimenstoll seconded the motion as amended. The Commission voted 4-0 in favor of the motion as amended. (Ayes: Wood, Benjamin, Coad, Leimenstoll. Nays: None.)

Chair Wood asked that Counsel Blackwood research the conditions or restrictions in the deed before March 2007.

**5. CUMBERLAND NEIGHBORHOOD: REQUEST FOR AMENDMENT TO CUMBERLAND REDEVELOPMENT PLAN AND RELEASE OF RESTRICTIVE COVENANTS ON 410 SUMMIT AVENUE.**

Mr. Curry said there had been a request to release restrictions on the properties in the Cumberland neighborhood. What you are probably going to be asked to do is set a public hearing at a later point for this request because of the need to go through a public process since this is a change in restrictions placed on the property. He pointed out the property on a map.

Counsel Blackwood said subject to any further information, Brian Byrd, Esq., represents the proposed purchaser. The Commission never owned, to the best of his knowledge, the Pet Dairy property, but the Commission owned all the surrounding property, including the property that they are wanting to acquire for certain purposes. What we have is the cloud of the property that we own that surrounds all that, together with restrictions, which amounted to the plan adopted by Cumberland Street and specified different zoning and/or greater limitations than zoning allows. So within that regard, it should be that we need to call a public hearing to allow the Commission to set aside restrictions and consider amending the plan and the fact that is it part of the Redevelopment Plan for Cumberland to allow a change in use or the terms and provisions you might want to put into the amendment related to that.

Brian Byrd, Esq., 300 North Greene Street, Suite 1400 introduced himself and said he was here on behalf of Kavanagh Associates and its affiliate, John Kavanagh Company, who is the purchaser of this piece of property. Kavanagh has this property under contract and is in the process of developing plans for what is intended to be a mixed-use project that would consist of some combination of retail, office and residential. As Counsel Blackwood indicated, there is a recorded plan that designates this property for use as light industrial and warehouses, which obviously is not consistent with what Kavanagh wants to do with the property. Also with that plat, there were recorded restrictive covenants that primarily establish certain dimensional requirements and some parking requirements. He went through and explained a packet of materials given each Commissioner.

Chair Wood said he thought if Mr. Byrd were going to make a presentation now, he would ask Mr. Byrd to make the same presentation at the public hearing. The residents should hear the same presentation as we do.

Mary Ellen Lowery, with Kavanagh Associates, 1810 Pembroke Road was also available to answer questions.

In response to a question from Chair Wood, Ms. Lowery said they had discussed preserving some of the façade on the Pet Dairy building. In looking at the photos, they like some of these architectural details and hope to preserve them if it is economically feasible. As far as doing the demolition, she thought they would have to demolish the whole building, but also figure out how to preserve parts of the side or recreate another type side.

Mr. Curry said another issue for the Commission to decide is whether or not you want to have an agreement to release certain restrictions, with the Commission retaining the ability to review plans that they do develop. His impression is that in one month, they will not have full design plans for this project developed so suggested that this item be continued to the public hearing.

Mr. Byrd said they wanted to be sure they understand the intersection here between the Redevelopment Commission and the Zoning Commission because we are going to have this property rezoned as well in order to redevelop it. He said they do not want to be caught between two governing bodies in trying to establish appropriate uses for the property. In his view, the City will get its bite at the apple in terms of making sure that appropriate uses are allowed on this property when they go the Zoning Commission and City Council.

Ms. Lowery said they had looked at 30,000-40,000 square foot building, three or four stories, with neighborhood retail on the first floor, possible office on the second floor and possible condos on the top floor(s). That is just one scheme they had talked about. They are thinking about something really integrated.

Chair Wood asked Mr. Curry if it would be appropriate to schedule the public hearing for the May meeting as opposed to the April meeting. That would give everyone more time.

Counsel Blackwood said there was an alternative. If you amended the plan, basically what you are doing is amending the plan about the land use and the requirements designated by indices of designated pieces of property. That amendment would be subject to approval by City Council. Then we could request for zoning and implement the change in the plan. But the same amendment could include provision relating to within the same classification for that property that any new improvements or whatever is within that classification. If you retain a right to review something then they are not spending time finalizing exactly what they want to do, assuming they have time to do it, and then present it to the Commission without having to then call the public hearing two to four months from now.

Mr. Byrd said he would like the Commission to understand that John Kavanagh Company is making a substantial investment of its own capital to buy this property on faith that the Redevelopment Commission is going to work with it to redevelop the property. There was some mention made of reviewing plans and that sort of thing. He would hope that the scope of the Redevelopment Commission's desire to review the development would not extend to that. They would like to walk away from this meeting today with somewhat of a concept of what the Commission is looking for in terms of more specificity from us of what we want to do and the types of restrictions, if any, that you would like to see with respect to the property, if that is possible.

Mr. Curry said he thought they were talking about developing an allowed use list or excluded use list and a zoning classification. If the amendment is going to be limited basically to that information, that is possible in the next couple of weeks and advertised for the next regular meeting as a public hearing. There is a proposal floating around about the possibility of doing away with the ramps going from Murrow Boulevard up to Summit Avenue and totally redesigning that intersection. That was part of the Aycock Master Plan that the community prepared about two years ago. Transportation is not actively designing that, but it has been presented to them as a possible idea for them to look at and they are supposed to be doing some engineering study of that possibility. Obviously that would have a big impact, if that were to happen.

Mr. Curry said the Commission would be doing a plan amendment for the Cumberland Plan, and he was assuming they were amending the land use designations that were in the plan and the zoning

classification that is shown in the plan. Those are the two primary things in the plan that need to be amended. Then as far as the restrictive covenants, it tracks through whatever the restrictive covenants, the Commission will either remove them or amend them.

Counsel Blackwood said the Commission never acquired the Pet Dairy property so it is not subject to the plan restrictions.

Mr. Leimenstoll moved that the public hearing be set for the May 16th meeting, with Notice to be given according to Statute, seconded by Ms. Coad. The Commission voted 4-0 in favor of the motion. (Ayes: Wood, Benjamin, Coad, Leimenstoll. Nays: None.)

## **6.     GORRELL STREET NEIGHBORHOOD: DEVELOPER PROPOSAL.**

Ms. Arkin said staff was requesting that Mr. Leimenstoll to be allowed to work with Dan Curry to review plans submitted by a builder over the next month or so, without necessarily having to bring the plans back to the Commission.

Chair Wood moved that the Commission allow its member, Jerry Leimenstoll, to work with staff to review the development plans for the Gorrell Street Neighborhood over the next month and to give a report. Ms. Coad seconded the motion. The Commission voted 4-0 in favor of the motion. (Ayes: Wood, Benjamin, Coad, Leimenstoll. Nays: None.)

## **7.     WILLOW OAKS NEIGHBORHOOD: GHA INFRASTRUCTURE FUNDING AGREEMENT AMENDMENT.**

Ms. Arkin said at this point, they are approximately 50 percent complete in the budget. We have identified additional needs for funding for this project at this point of approximately \$570,000. The way that this project is funded is through an Infrastructure Funding Agreement with the Greensboro Housing Authority (GHA). Although there are still some pieces in play because we have 50 percent more of the project to do, it is not a good situation to have a contract that does not cover what we expect the cost of the project to be. She would like to go ahead and do the amendment to the Infrastructure Funding Agreement with GHA in the amount of \$570,000. She said they hit a section of bad soil in one of the zones. She explained why this is the Commission's responsibility.

Ms. Arkin named the sources of funding, which included \$438,000 in CDBG funds from last year's appropriation for this project to complete the Phase III acquisitions. What that means at this point is that it will result probably in a six to 12 month delay in completion. They were intending to complete the acquisition of Phase III properties somewhere around the end of 2007, but that completion will be pushed out probably six months or another year. They have already put in a CD request for \$350,000 for the 2006-07 budget to make up some of that shortfall. This extra money is part of the programming of the funds for the Department CD's budget. That particular piece of the budget had not been fully programmed yet.

In response to a question from Mr. Leimenstoll, Ms. Arkin said they had one more zone that will need some undercut and fill and they are getting an estimate on that now. They are also rethinking the potential use for that small area. It could be \$50,000-\$60,000. But one of the things that is still a factor in this is that as we continue the rest of infrastructure, they are having line items coming in under budget where we are ending up not spending the money that we thought we were going to spend. So there is still the potential for it to even be less than \$570,000. They just do not fully know yet since we are only half way through the project. She said she could not continue to run a contract with an agreement that is less than what we think the contract is going to end up costing. She cannot do that because it is not

fiscally responsible. After their investigation of all areas, the current estimate is somewhere around \$50,000-\$60,000 additional, but some of that is actually already built in here. It was a little less than \$500,000 that they have come up with so far and then about an extra approximately \$130,000 was for additional bits and pieces of construction work. Part of this is included in that.

Ms. Arkin said the Commission approved the initial Infrastructure Funding Agreement with GHA based on engineering estimates of the total construction cost. To that amount, they added estimates of the design work that was going to be required, estimates of additional development, estimates of development fees; they padded that a bit for contingencies and went ahead and started the agreement with GHA based on that dollar figure that was less than \$3 million. Then they went back and actually increased that amount when they got the actual bids on the infrastructure. They increased it by \$850,000. It came back to you at that point and then went to Council again.

Ms. Arkin said the first agreement the Commission saw with GHA had a dollar figure attached to it. It is an actual contract with encumbered funds. The City Inspectors do the inspections and the City is doing the infrastructure.

Ms. Arkin said there was not intended to be much infrastructure construction in Phase III.

Chair Wood moved that the Redevelopment Commission support a request to the Greensboro City Council for them to approve an amendment to the Infrastructure Funding Agreement with the Greensboro Housing Authority in the amount of \$570,000. Ms. Coad seconded the motion.

Mr. Benjamin offered a friendly amendment to the motion as follows: Chair Wood moved that the Redevelopment Commission support a request to the Greensboro City Council for them to approve an amendment to the Infrastructure Funding Agreement between the Greensboro Housing Authority and the City of Greensboro in the amount of \$570,000. Chair Wood and Ms. Coad support the rephrasing of the motion. The Commission voted 4-0 in favor of the amended motion. (Ayes: Wood, Benjamin, Coad, Leimenstoll. Nays: None.)

#### **4. SOUTH ELM STREET:**

##### **A) AUTHORIZATION TO MAKE AN OFFER FOR VOLUNTARY ACQUISITION OF 702-704 AND 724 SOUTH ELM STREET.**

Ms. Harris described this property and the appraisal and review appraisal for Elm CCM property (702-704 & 724 South Elm Street) which were included in the Commissioner's agenda packets. The appraiser estimates the "as is" value of this property at \$190,000. The reviewer recommends acceptance of the appraisal. The Commission is asked to set an off amount for this property.

Ms. Harris said the appraisers of the North State Mill property determined that the building is functionally obsolete and gave it no value and the value the land is \$100,000.

There was a discussion among the Commission members as to the value of different properties and why one was appraised higher than another. They also discussed the environmental issues involved with these properties.

Mr. Benjamin moved that the Commission offer to make a voluntary acquisition of 702-704 and 724 South Elm Street at the appraised value of \$190,000, reflecting the same conditional language when we

limit our responsibilities of exposure to the environmental that is known and has been identified.

Chair Wood said the offer was on an "as is" basis for \$190,000. If the property has less or no contamination, then we will offer the appraised value of \$250,000.

Counsel Blackwood asked Chair Wood if he were trying to change the motion.

Chair Wood said he was just saying it had to be complete. Doesn't the Commission have to say that we are offering the appraised value of \$250,000 if there is no contamination?

Counsel Blackwood suggested a resolution of this to be to make an offer, subject to further testing. We need to have a discussion basically on all these about the environmental issues. He said to go ahead and establish what you are willing to pay based on the appraisal. Then we need to have the discussion dealing with the phrasing of the environmental conditions and how this is to be handled.

Counsel Blackwood said he thought if the Commission set prices subject to the appraised value and subject to the known environmental conditions and then we are going to have inspections anyway. Then we need to have discussion that applies to all of these about this environmental situation.

Mr. Benjamin moved to make an offer of the appraised value of \$190,000 for the "as is" value of the property at 702-704 and 724 South Elm Street, taking on as part of that the known and identified environmental list as shown in the report that is included in our package. Chair Wood seconded the motion. The Commission voted 4-0 in favor of the motion. (Ayes: Wood, Benjamin, Coad, Leimenstoll. Nays: None.)

**B) AUTHORIZATION TO MAKE AN OFFER FOR VOLUNTARY ACQUISITION OF 728 AND 730 SOUTH ELM STREET.**

Ms. Harris described these properties and said the appraisal and review appraisal for the Worth property (728 and 730 South Elm Street) are attached. The appraiser estimates the "as is" value of 728 South Elm (industrial building and land) at \$170,000 and the "as is" value of 730 South Elm Street (office building and land) at \$57,000, for a combined "as" value for both parcels of \$227,000. The reviewer recommends acceptance of the appraisal. The Commission is asked to set an offer amount for this property.

Mr. Benjamin moved to make a offer of the appraised value of \$227,000 for the "as is" property 728 and 730 South Elm Street, taking on as part of that the known and identified environmental list as shown in the report that is included in our package. Chair Wood seconded the motion. The Commission voted 4-0 in favor of the motion. (Ayes: Wood, Benjamin, Coad, Leimenstoll. Nays: None.)

**C) REQUEST TO SCHEDULE PUBLIC HEARING ON SOUTH ELM REDEVELOPMENT PROPERTY.**

Mr. Curry said staff would request that the Commission schedule a public hearing for the Commission's May meeting for consideration of the South Elm Street Redevelopment Plan. Staff will give the Commission an update in April and walk you through that plan, in preparation for that public hearing.

Chair Wood moved that the Commission set a date of May 15, 2006 for a public hearing on the South Elm Street Redevelopment Plan and that the Commission receive an update on that public hearing at the April meeting and that the hearing is properly advertised as required in the Statute. Ms. Coad seconded the motion. The Commission voted 4-0 in favor of the motion. (Ayes: Wood, Benjamin, Coad,



Leimenstoll. Nays: None.)

**D) DISCUSSION OF PURCHASE OFFER ON NORTH STATE MILL PROPERTY.**

Counsel Blackwood, Mr. Curry and Commission members had a general discussion concerning the purchase offer on the North State Mill property as well as other S. Elm properties on which the Commission had authorized purchase offers. The status of the environmental contaminants was discussed.

Chair Wood moved that the Commission have the attorney for the Redevelopment Commission work with Attorney George House to come up with appropriate language to be used in purchase offers and that this appropriate language be presented to the Commission at a future meeting. The motion was seconded by Ms. Coad.

Counsel Blackwood said he believed what Chair Wood has just proposed means all the offers are suspended and the Commission wants to see that language because it is going to be the language that needs to be in there.

Chair Wood amended his motion to add: Get the appropriate language and insert it into all contracts that the Commission has agreed to be negotiated.

Chair Wood reworded his motion as follows: He moved that the Commission's attorney confer with George House to develop the appropriate language to use regarding environmental issues and to insert the appropriate language into the contracts for properties in Brownfields area on which the Commission had authorized purchase offers. Ms. Coad seconded the motion. The Commission voted 4-0 in favor of the motion. (Ayes: Wood, Benjamin, Coad, Leimenstoll. Nays: None.)

\* \* \* \* \*

There being no further business before the Commission, the meeting was adjourned at 7:16 p.m.

Respectfully submitted,

Dan Curry, Assistant Secretary  
Greensboro Redevelopment Commission

DC/jd.ps